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8 **BEFORE THE**
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **FOR THE BUREAU OF AUTOMOTIVE REPAIR**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 79/08-53

13 BROTHERS SMOG TEST CENTER
KYU HWANG CHAE, OWNER
14 8101 S. Figueroa Street
Los Angeles, CA 90003-2722

A C C U S A T I O N

SMOG CHECK

15 Automotive Repair Dealer Reg. No. AB 182534
Smog Check, Test Only, Station License
16 No. TB 182534,

17 and

18 KYU HWANG CHAE
523 Clement Drive
Glendale, CA 91202

19 Advanced Emission Specialist Technician
20 License No. EA 113872

21 Respondents.
22

23 Complainant alleges:

24 **PARTIES**

25 1. Sherry Mehl ("Complainant") brings this Accusation solely in her official
26 capacity as the Chief of the Bureau of Automotive Repair ("Bureau"), Department of Consumer
27 Affairs.

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1 **Automotive Repair Dealer Registration No. AB 182534**

2 2. In or about 1995, the Director of Consumer Affairs ("Director") issued
3 Automotive Repair Dealer Registration Number AB 182534 (hereinafter "registration") to Kyu
4 Hwang Chae ("Respondent"), owner of Brothers Auto Repair. On February 9, 1999,
5 Respondent's business name was changed to Brothers Smog Test Center. Respondent's
6 registration was in full force and effect at all times relevant to the charges brought herein and will
7 expire on February 28, 2008, unless renewed.

8 **Smog Check, Test Only, Station License No. TB 182534**

9 3. On or about September 25, 1998, the Director issued Smog Check, Test
10 Only, Station License Number TB 182534 (hereinafter "smog check station license") to
11 Respondent. Respondent's smog check station license was in full force and effect at all times
12 relevant to the charges brought herein and will expire on February 28, 2008, unless renewed.

13 **Advanced Emission Specialist Technician License No. EA 113872**

14 4. In or about 1998, the Director issued Advanced Emission Specialist
15 Technician License Number EA 113872 (hereinafter "technician license") to Respondent.
16 Respondent's technician license was in full force and effect at all times relevant to the charges
17 brought herein and will expire on January 31, 2010, unless renewed.

18 **JURISDICTION**

19 5. Business and Professions Code ("Bus. & Prof. Code") section 9884.7
20 provides that the Director may invalidate an automotive repair dealer registration.

21 6. Bus. & Prof. Code section 9884.13 provides, in pertinent part, that the
22 expiration of a valid registration shall not deprive the Director of jurisdiction to proceed with a
23 disciplinary proceeding against an automotive repair dealer or to render a decision invalidating a
24 registration temporarily or permanently.

25 7. Health and Safety Code ("Health & Saf. Code") section 44002 provides,
26 in pertinent part, that the Director has all the powers and authority granted under the Automotive
27 Repair Act for enforcing the Motor Vehicle Inspection Program.

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8. Health & Saf. Code section 44072.6 provides, in pertinent part, that the expiration or suspension of a license by operation of law, or by order or decision of the Director of Consumer Affairs, or a court of law, or the voluntary surrender of the license shall not deprive the Director of jurisdiction to proceed with disciplinary action.

STATUTORY PROVISIONS

9. Bus. & Prof. Code section 9884.7 states, in pertinent part:

(a) The director, where the automotive repair dealer cannot show there was a bona fide error, may refuse to validate, or may invalidate temporarily or permanently, the registration of an automotive repair dealer for any of the following acts or omissions related to the conduct of the business of the automotive repair dealer, which are done by the automotive repair dealer or any automotive technician, employee, partner, officer, or member of the automotive repair dealer.

(1) Making or authorizing in any manner or by any means whatever any statement written or oral which is untrue or misleading, and which is known, or which by the exercise of reasonable care should be known, to be untrue or misleading.

• • • •

(4) Any other conduct which constitutes fraud.

• • • •

(6) Failure in any material respect to comply with the provisions of this chapter or regulations adopted pursuant to it.

• • • •

(c) Notwithstanding subdivision (b), the director may refuse to validate, or may invalidate temporarily or permanently, the registration for all places of business operated in this state by an automotive repair dealer upon a finding that the automotive repair dealer has, or is, engaged in a course of repeated and willful violations of this chapter, or regulations adopted pursuant to it.

10. Bus. & Prof. Code section 9884.8 states, in pertinent part:

All work done by an automotive repair dealer, including all warranty work, shall be recorded on an invoice and shall describe all service work done and parts supplied. Service work and parts shall be listed separately on the invoice, which shall also state separately the subtotal prices for service work and for parts, not including sales tax, and shall state separately the sales tax, if any, applicable to each . . .

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11. Bus. & Prof. Code section 22, subdivision (a), states:

"Board" as used in any provision of this Code, refers to the board in which the administration of the provision is vested, and unless otherwise expressly provided, shall include "bureau," "commission," "committee," "department," "division," "examining committee," "program," and "agency."

12. Bus. & Prof. Code section 477, subdivision (b), states, in pertinent part, that a "license" includes "registration" and "certificate."

13. Health & Saf. Code section 44072.2 states, in pertinent part:

The director may suspend, revoke, or take other disciplinary action against a license as provided in this article if the licensee, or any partner, officer, or director thereof, does any of the following:

(a) Violates any section of this chapter [the Motor Vehicle Inspection Program (Health and Saf. Code § 44000, et seq.)] and the regulations adopted pursuant to it, which related to the licensed activities.

....

(c) Violates any of the regulations adopted by the director pursuant to this chapter.

(d) Commits any act involving dishonesty, fraud, or deceit whereby another is injured . . .

COST RECOVERY

14. Bus. & Prof. Code section 125.3 provides, in pertinent part, that a Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

UNDERCOVER OPERATION #1: 1987 BUICK REGAL

15. On January 12, 2006, a Bureau undercover operator ("operator") took the Bureau's 1987 Buick Regal to Chung's Auto Repair ("Chung's") and requested a smog inspection. The carburetor throttle position sensor ("TPS") on the Bureau-documented vehicle had been misadjusted, causing the exhaust tailpipe emissions to exceed the gross polluter limits. After the smog inspection was completed, Chung's employee, "Ted", told the operator that the vehicle had failed the test. The operator authorized Chung's to diagnose the problem with the vehicle. Ted

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1 later informed the operator that the vehicle needed carburetor work and a new catalytic converter
2 and that the total cost for the repairs and smog inspection would be \$585.

3 16. On January 13, 2006, the operator returned to Chung's to retrieve the
4 vehicle. Ted informed the operator that the vehicle had to be taken to a second smog station to
5 be certified, that the cost of this inspection was \$50, and that the \$50 had been added to the \$585
6 estimate. The operator paid Chung's a total of \$635.41 and received copies of various documents,
7 including a vehicle inspection report ("VIR") dated January 13, 2006, signed by Respondent.
8 That same day, electronic smog Certificate of Compliance Number GA723169C was issued for
9 the vehicle.

10 17. On January 17, 2006, a Bureau representative inspected and performed a
11 smog test on the vehicle. The representative found, among other things, that the carburetor was
12 damaged and had not been properly adjusted, that the carburetor TPS was still misadjusted, and
13 that the exhaust tailpipe emissions were still above the "gross polluter" limits.

14 **FIRST CAUSE FOR DISCIPLINE**

15 **(Untrue or Misleading Statements)**

16 18. Respondent's registration is subject to disciplinary action pursuant to Bus.
17 & Prof. Code section 9884.7, subdivision (a)(1), in that Respondent made or authorized
18 statements which he knew or in the exercise of reasonable care should have known to be untrue
19 or misleading, as follows: Respondent certified under penalty of perjury on the VIR that the
20 Bureau's 1987 Buick Regal had passed inspection and was in compliance with applicable laws
21 and regulations. In fact, the carburetor was damaged and had not been properly adjusted, the
22 carburetor TPS was still misadjusted, and the exhaust tailpipe emissions were still above the
23 "gross polluter" limits. As such, the vehicle would not pass the inspection required by Health &
24 Saf. Code section 44012.

25 **SECOND CAUSE FOR DISCIPLINE**

26 **(Fraud)**

27 19. Respondent's registration is subject to disciplinary action pursuant to Bus.
28 & Prof. Code section 9884.7, subdivision (a)(4), in that Respondent committed an act which

1 constitutes fraud, as follows: Respondent issued an electronic smog certificate of compliance for
2 the Bureau's 1987 Buick Regal without performing a bona fide inspection of the emission
3 control devices and systems on the vehicle, thereby depriving the People of the State of
4 California of the protection afforded by the Motor Vehicle Inspection Program.

5 **THIRD CAUSE FOR DISCIPLINE**

6 **(Violations of the Motor Vehicle Inspection Program)**

7 20. Respondent's smog check station license is subject to disciplinary action
8 pursuant to Health & Saf. Code section 44072.2, subdivision (a), in that Respondent failed to
9 comply with the following sections of that Code:

- 10 a. **Section 44012:** Respondent failed to perform the emission control tests
11 on the Bureau's 1987 Buick Regal in accordance with procedures
12 prescribed by the department.
13 b. **Section 44015:** Respondent issued an electronic smog certificate of
14 compliance for the Bureau's 1987 Buick Regal without properly testing
15 and inspecting the vehicle to determine if it was in compliance with Health
16 & Saf. Code section 44012.

17 **FOURTH CAUSE FOR DISCIPLINE**

18 **(Failure to Comply with Regulations Pursuant
19 to the Motor Vehicle Inspection Program)**

20 21. Respondent's smog check station license is subject to disciplinary action
21 pursuant to Health & Saf. Code section 44072.2, subdivision (c), in that Respondent failed to
22 comply with the provisions of California Code of Regulations, title 16, as follows:

- 23 a. **Section 3340.24, subdivision (c):** Respondent falsely or fraudulently
24 issued an electronic smog certificate of compliance for the Bureau's 1987
25 Buick Regal.
26 b. **Section 3340.35, subdivision (c):** Respondent issued an electronic smog
27 certificate of compliance for the Bureau's 1987 Buick Regal even though

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1 the vehicle had not been inspected in accordance with Health & Saf. Code
2 section 3340.42.

- 3 c. **3340.41, subdivision (c)**: Respondent knowingly entered into the
4 emissions inspection system false information about the Bureau's 1987
5 Buick Regal.
6 d. **Section 3340.42**: Respondent failed to conduct the required smog tests on
7 the Bureau's 1987 Buick Regal in accordance with the Bureau's
8 specifications.

9 **FIFTH CAUSE FOR DISCIPLINE**

10 **(Dishonesty, Fraud or Deceit)**

11 22. Respondent's smog check station license is subject to disciplinary action
12 pursuant to Health & Saf. Code section 44072.2, subdivision (d), in that Respondent committed a
13 dishonest, fraudulent or deceitful act whereby another is injured by issuing an electronic smog
14 certificate of compliance for the Bureau's 1987 Buick Regal without performing a bona fide
15 inspection of the emission control devices and systems on the vehicle, thereby depriving the
16 People of the State of California of the protection afforded by the Motor Vehicle Inspection
17 Program.

18 **SIXTH CAUSE FOR DISCIPLINE**

19 **(Violations of the Motor Vehicle Inspection Program)**

20 23. Respondent's technician license is subject to disciplinary action pursuant
21 to Health & Saf. Code section 44072.2, subdivision (a), in that Respondent failed to comply with
22 provisions of that Code as follows:

- 23 a. **Section 44012**: Respondent failed to perform the emission control tests
24 on the Bureau's 1987 Buick Regal in accordance with procedures
25 prescribed by the department.
26 b. **Section 44059**: Respondent willfully made false entries on the VIR, as set
27 forth in paragraph 18 above.

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1 **UNDERCOVER OPERATION #2: 1993 MAZDA PROTEGE**

2 26. On May 17, 2006, a Bureau undercover operator ("operator") took the
3 Bureau's 1993 Mazda Protege to Respondent's facility and requested a smog inspection.
4 The water thermosensor wire had been disconnected at the electronic control module on the
5 Bureau-documented vehicle, causing the exhaust tailpipe emissions to exceed the gross polluter
6 limits. The operator signed and received a copy of a work order for the inspection. After the
7 inspection was completed, the operator was told that the vehicle had failed the test and was
8 advised to take it to Chung's to have the cause of the smog inspection failure diagnosed. The
9 operator was not given an invoice or a VIR at that time.

10 27. At approximately 1045 hours that same day, the operator took the vehicle
11 to Chung's and requested a diagnosis of the smog inspection failure. The operator was later told
12 that the vehicle was in need of electrical repairs at an estimated cost of \$450. The operator
13 authorized the work.

14 28. On May 18, 2006, the operator returned to Chung's to retrieve the vehicle,
15 paid \$480 for the repairs, and received copies of various documents, including an invoice from
16 Brothers Smog Test Center and two VIR's signed by Respondent, one dated May 17, 2006, and
17 the other dated May 18, 2006.

18 29. Later that same day, a Bureau representative inspected the vehicle and
19 reviewed the VIR's. The representative found that the VIR dated May 17, 2006, indicated that
20 the vehicle failed the ignition timing test when, in fact, the ignition timing was adjusted to
21 manufacturer specifications at the time the vehicle was taken to Respondent's facility.

22 **NINTH CAUSE FOR DISCIPLINE**

23 **(Untrue or Misleading Statements)**

24 30. Respondent's registration is subject to disciplinary action pursuant to Bus.
25 & Prof. Code section 9884.7, subdivision (a)(1), in that Respondent made or authorized
26 statements which he knew or in the exercise of reasonable care should have known to be untrue
27 or misleading, as follows: Respondent represented on the VIR dated May 17, 2007, that the
28 Bureau's 1993 Mazda Protege failed the functional ignition timing test at "B22". In fact, the

1 ignition timing on the vehicle was 10 degrees BTDC (before top dead center) or "B10" and was
2 within manufacturer's specifications at the time the vehicle was taken to Respondent's facility.

3 **TENTH CAUSE FOR DISCIPLINE**

4 **(Failure to Provide an Invoice)**

5 31. Respondent's registration is subject to disciplinary action pursuant to Bus.
6 & Prof. Code section 9884.7, subdivision (a)(6), in that Respondent failed to comply with section
7 9884.8 of that Code, as follows: On or about May 17, 2006, Respondent failed to provide the
8 operator with an invoice listing all service work performed and/or parts supplied on the Bureau's
9 1993 Mazda Protege following the smog inspection on the vehicle.

10 **ELEVENTH CAUSE FOR DISCIPLINE**

11 **(Violations of the Motor Vehicle Inspection Program)**

12 32. Respondent's smog check station license is subject to disciplinary action
13 pursuant to Health & Saf. Code section 44072.2, subdivision (a), in that Respondent failed to
14 comply with the following sections of that Code:

- 15 a. **Section 44012:** On or about May 17, 2006, Respondent failed to perform
16 the emission control tests on the Bureau's 1993 Mazda Protege in
17 accordance with procedures prescribed by the department.
18 b. **Section 44014.5, subdivision (c):** On or about May 17, 2006, Respondent
19 or his employee(s) referred the operator to a particular provider of vehicle
20 repair services, i.e., Chung's.

21 **TWELFTH CAUSE FOR DISCIPLINE**

22 **(Failure to Comply with Regulations Pursuant
23 to the Motor Vehicle Inspection Program)**

24 33. Respondent's smog check station license is subject to disciplinary action
25 pursuant to Health & Saf. Code section 44072.2, subdivision (c), in that Respondent failed to
26 comply with the provisions of California Code of Regulations, title 16, as follows:

- 27 a. **Section 3340.41, subdivision (a):** On or about May 17, 2006, Respondent
28 failed to give a copy of the VIR to the operator.

- 1 b. **3340.41, subdivision (c):** On or about May 17, 2006, Respondent
2 knowingly entered into the emissions inspection system false information
3 about the Bureau's 1993 Mazda Protege.
4 c. **Section 3340.42:** On or about May 17, 2006, Respondent failed to
5 conduct the required smog tests on the Bureau's 1993 Mazda Protege in
6 accordance with the Bureau's specifications.

7 **THIRTEENTH CAUSE FOR DISCIPLINE**

8 **(Violations of the Motor Vehicle Inspection Program)**

9 34. Respondent's technician license is subject to disciplinary action pursuant
10 to Health & Saf. Code section 44072.2, subdivision (a), in that Respondent failed to comply with
11 provisions of that Code as follows:

- 12 a. **Section 44012:** On or about May 17, 2006, Respondent failed to perform
13 the emission control tests on the Bureau's 1993 Mazda Protege in
14 accordance with procedures prescribed by the department.
15 b. **Section 44059:** Respondent willfully made false entries on the VIR
16 dated May 17, 2006, as set forth in paragraph 30 above.

17 **FOURTEENTH CAUSE FOR DISCIPLINE**

18 **(Failure to Comply with Regulations Pursuant**
19 **to the Motor Vehicle Inspection Program)**

20 35. Respondent's technician license is subject to disciplinary action pursuant
21 to Health & Saf. Code section 44072.2, subdivision (c), in that Respondent failed to comply with
22 provisions of California Code of Regulations, title 16, as follows:

- 23 a. **Section 3340.30, subdivision (a):** On or about May 17, 2006, Respondent
24 failed to inspect and test the Bureau's 1993 Mazda Protege in accordance
25 with Health & Saf. Code sections 44012 and 44035, and California Code
26 of Regulations, title 16, section 3340.42.

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1 b. 3340.41, subdivision (c): On or about May 17, 2006, Respondent
2 knowingly entered into the emissions inspection system false information
3 about the Bureau's 1993 Mazda Protege.

4 c. Section 3340.42: On or about May 17, 2006, Respondent failed to
5 conduct the required smog tests on the Bureau's 1993 Mazda Protege in
6 accordance with the Bureau's specifications.

7 **UNDERCOVER OPERATION #3: 1986 JEEP CHEROKEE**

8 36. On December 5, 2006, a Bureau undercover operator ("operator") took the
9 Bureau's 1986 Jeep Cherokee to Respondent's facility and requested a smog inspection. A
10 defective coolant temperature sensor had been installed in the Bureau-documented vehicle. The
11 operator signed and received a copy of a work order for the inspection. After the inspection was
12 completed, the operator was told that the vehicle had failed the test. The operator paid the
13 facility \$42 and was given an invoice and a VIR signed by Respondent. The VIR indicated that
14 the vehicle failed the inspection as a gross polluter.

15 37. At approximately 1135 hours that same day, the operator took the vehicle
16 to Chung's and requested a diagnosis of the smog inspection failure. After the diagnosis was
17 performed on the vehicle, Chung's employee, "Ted", told the operator that the engine needed
18 major adjustments along with vacuum and electrical repairs at an estimated cost of \$350. The
19 operator authorized the work.

20 38. On December 6, 2006, the operator returned to Chung's to retrieve the
21 vehicle. Ted gave the operator an invoice totaling \$360.82 and told him that the vehicle had
22 passed the smog inspection and that he was charging the operator an additional \$10 for the smog
23 certificate. The operator paid Ted \$360 in cash and received copies of various documents,
24 including a VIR dated December 5, 2006, with a time of 1516 hours, signed by Respondent.
25 That same day, electronic smog Certificate of Compliance Number VD211924C was issued for
26 the vehicle.

27 39. On December 7, 2006, a Bureau representative inspected and performed a
28 smog test on the vehicle. The representative found that the vehicle failed the functional ignition

1 timing test because the ignition timing was not adjusted properly and was not within
2 manufacturer's specifications¹. Further, the defective coolant temperature sensor was still in
3 place on the vehicle, causing excessive exhaust tailpipe emissions.

4 **FIFTEENTH CAUSE FOR DISCIPLINE**

5 **(Untrue or Misleading Statements)**

6 40. Respondent's registration is subject to disciplinary action pursuant to Bus.
7 & Prof. Code section 9884.7, subdivision (a)(1), in that Respondent made or authorized
8 statements which he knew or in the exercise of reasonable care should have known to be untrue
9 or misleading, as follows:

10 a. Respondent certified under penalty of perjury on the VIR dated December
11 5, 2006, with a time of 1516 hours, that the Bureau's 1986 Jeep Cherokee had passed inspection
12 and was in compliance with applicable laws and regulations. In fact, the ignition timing was not
13 adjusted properly and was not within manufacturer's specifications. Further, the coolant
14 temperature sensor was defective, causing excessive exhaust tailpipe emissions. As such, the
15 vehicle would not pass the inspection required by Health & Saf. Code section 44012.

16 b. Respondent certified under penalty of perjury on the VIR dated December
17 5, 2006, with a time of 1516 hours, that the ignition timing on the Bureau's 1986 Jeep Cherokee
18 was "B11". In fact, the ignition timing was 5 degrees before top dead center or "B5" at the time
19 the Bureau representative inspected the vehicle on December 7, 2006.

20 **SIXTEENTH CAUSE FOR DISCIPLINE**

21 **(Fraud)**

22 41. Respondent's registration is subject to disciplinary action pursuant to Bus.
23 & Prof. Code section 9884.7, subdivision (a)(4), in that Respondent committed an act which
24 constitutes fraud, as follows: Respondent issued an electronic smog certificate of compliance for
25 the Bureau's 1986 Jeep Cherokee without performing a bona fide inspection of the emission

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28 1. The ignition timing was 10 degrees before top dead center and was within manufacturer's specifications
at the time the vehicle was taken to Respondent's facility.

1 control devices and systems on the vehicle, thereby depriving the People of the State of
2 California of the protection afforded by the Motor Vehicle Inspection Program.

3 **SEVENTEENTH CAUSE FOR DISCIPLINE**

4 **(Violations of the Motor Vehicle Inspection Program)**

5 42. Respondent's smog check station license is subject to disciplinary action
6 pursuant to Health & Saf. Code section 44072.2, subdivision (a), in that Respondent failed to
7 comply with the following sections of that Code:

- 8 a. **Section 44012:** Respondent failed to perform the emission control tests
9 on the Bureau's 1986 Jeep Cherokee in accordance with procedures
10 prescribed by the department.
11 b. **Section 44015:** Respondent issued an electronic smog certificate of
12 compliance for the Bureau's 1986 Jeep Cherokee without properly testing
13 and inspecting the vehicle to determine if it was in compliance with Health
14 & Saf. Code section 44012.

15 **EIGHTEENTH CAUSE FOR DISCIPLINE**

16 **(Failure to Comply with Regulations Pursuant
17 to the Motor Vehicle Inspection Program)**

18 43. Respondent's smog check station license is subject to disciplinary action
19 pursuant to Health & Saf. Code section 44072.2, subdivision (c), in that Respondent failed to
20 comply with the provisions of California Code of Regulations, title 16, as follows:

- 21 a. **Section 3340.24, subdivision (c):** Respondent falsely or fraudulently
22 issued an electronic smog certificate of compliance for the Bureau's 1986
23 Jeep Cherokee.
24 b. **Section 3340.35, subdivision (c):** Respondent issued an electronic smog
25 certificate of compliance for the Bureau's 1986 Jeep Cherokee even
26 though the vehicle had not been inspected in accordance with Health &
27 Saf. Code section 3340.42.

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- 1 c. **3340.41, subdivision (c)**: Respondent knowingly entered into the
2 emissions inspection system false information about the Bureau's 1986
3 Jeep Cherokee.
- 4 d. **Section 3340.42**: Respondent failed to conduct the required smog tests on
5 the Bureau's 1986 Jeep Cherokee in accordance with the Bureau's
6 specifications.

7 **NINETEENTH CAUSE FOR DISCIPLINE**

8 **(Dishonesty, Fraud or Deceit)**

9 44. Respondent's smog check station license is subject to disciplinary action
10 pursuant to Health & Saf. Code section 44072.2, subdivision (d), in that Respondent committed a
11 dishonest, fraudulent or deceitful act whereby another is injured by issuing an electronic smog
12 certificate of compliance for the Bureau's 1986 Jeep Cherokee without performing a bona fide
13 inspection of the emission control devices and systems on the vehicle, thereby depriving the
14 People of the State of California of the protection afforded by the Motor Vehicle Inspection
15 Program.

16 **TWENTIETH CAUSE FOR DISCIPLINE**

17 **(Violations of the Motor Vehicle Inspection Program)**

18 45. Respondent's technician license is subject to disciplinary action pursuant
19 to Health & Saf. Code section 44072.2, subdivision (a), in that Respondent failed to comply with
20 provisions of that Code as follows:

- 21 a. **Section 44012**: Respondent failed to perform the emission control tests
22 on the Bureau's 1986 Jeep Cherokee in accordance with procedures
23 prescribed by the department.
- 24 b. **Section 44059**: Respondent willfully made false entries on the VIR with a
25 time of 1516 hours, as set forth in paragraph 40 above.

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1 **TWENTY-FIRST CAUSE FOR DISCIPLINE**

2 **(Failure to Comply with Regulations Pursuant**
3 **to the Motor Vehicle Inspection Program)**

4 46. Respondent's technician license is subject to disciplinary action pursuant
5 to Health & Saf. Code section 44072.2, subdivision (c), in that Respondent failed to comply with
6 provisions of California Code of Regulations, title 16, as follows:

- 7 a. **Section 3340.24, subdivision (c):** Respondent falsely or fraudulently
8 issued an electronic smog certificate of compliance for the Bureau's
9 1986 Jeep Cherokee.
- 10 b. **Section 3340.30, subdivision (a):** Respondent failed to inspect and test
11 the Bureau's 1986 Jeep Cherokee in accordance with Health & Saf.
12 Code sections 44012 and 44035, and California Code of Regulations, title
13 16, section 3340.42.
- 14 c. **3340.41, subdivision (c):** Respondent knowingly entered into the
15 emissions inspection system false information about the Bureau's 1986
16 Jeep Cherokee.
- 17 d. **Section 3340.42:** Respondent failed to conduct the required smog tests on
18 the Bureau's 1986 Jeep Cherokee in accordance with the Bureau's
19 specifications.

20 **TWENTY-SECOND CAUSE FOR DISCIPLINE**

21 **(Dishonesty, Fraud or Deceit)**

22 47. Respondent's technician license is subject to disciplinary action pursuant
23 to Health & Saf. Code section 44072.2, subdivision (d), in that Respondent committed a
24 dishonest, fraudulent or deceitful act whereby another is injured by issuing an electronic smog
25 certificate of compliance for the Bureau's 1986 Jeep Cherokee without performing a bona fide
26 inspection of the emission control devices and systems on the vehicle, thereby depriving the
27 People of the State of California of the protection afforded by the Motor Vehicle Inspection
28 Program.

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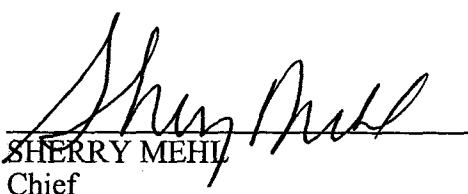
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1 5. Revoking or suspending any additional license issued under Chapter 5 of
2 the Health and Safety Code in the name of Kyu Hwang Chae;

3 6. Ordering Respondent Kyu Hwang Chae, individually and as owner of
4 Brothers Smog Test Center, to pay the Bureau of Automotive Repair the reasonable costs of the
5 investigation and enforcement of this case, pursuant to Business and Professions Code section
6 125.3;

7 7. Taking such other and further action as deemed necessary and proper.

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9 DATED: 2-15-08.

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12 SHERRY MEHL
13 Chief
14 Bureau of Automotive Repair
15 Department of Consumer Affairs
16 State of California

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27 Complainant